

Statement of Captain Kenneth G. Wiman
U. S. Coast Guard
before the
Subcommittee on Water Resources
Committee on Public Works and Transportation
U. S. House of Representatives
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Good morning, Mr. Chairman and members of the Subcommittee. I am Captain Kenneth G. Wiman, Deputy Chief, Office of Marine Environment and Systems, United States Coast Guard. I am pleased to take this opportunity to present the views of the Department of Transportation on the need for additional legislation, under the authority of the Federal Water Pollution Control Act, for dealing with the problems associated with hazardous chemicals.

Millions of tons of chemicals are transported nationwide. Some of these products are highly toxic to both man and the environment and the release of even small quantities can have serious consequences. The ever present dangers, inherent in handling and using these substances, have forced increasing emphasis on environmental protection since the early 1970's, and resulted in the EPA's designation of 297 of these chemicals as hazardous substances under the authority of the Federal Water Pollution Control Act.

In the 1972 amendments to the Federal Water Pollution Control Act, liability and penalty provisions for discharges of hazardous substances, paralleling the provisions for oil, appeared for the first time. In the past decade, the lack of a reporting requirement for hazardous substance discharges, the dramatic increase in the importation of oil, and the heightened public concern over the impacts of oil discharges from tanker casualties focused the national attention on solving the problems of preventing oil spills and combating them effectively when they did occur.

As a result, significant strides have been made, to reduce the incidence of oil spills, which are indicative of maturation in the nation's programs for response to and prevention of oil pollution discharges.

While Congress and the regulatory agencies worked toward a solution to the oil pollution problem, national attention began to focus on a problem of even greater dimension--hazardous spills and the release of hazardous substances into the environment. The highly publicized incident of Love Canal; the intentional discharge of toxic materials into the sewage system of Louisville, Kentucky which knocked out the sewage treatment plant causing raw sewage to enter the Ohio River which resulted in the contamination of numerous downriver communities; the train derailment in Crestview, Florida involving more than one hundred cars carrying toxic materials, causing numerous explosions resulting in the release of chlorine gas in a populated area; and, more recently, the release of hydrogen cyanide resulting from the reaction between mine tailings and hazardous wastes dumped into an abandoned mine shaft in Pittston, PA, and the threat of a release from a hazardous waste site at Sharptown, MD, have revealed to the nation that the scope of the problems that threaten the environment and the public health from the release of hazardous substances are only now becoming evident.

Over the past decade, the U.S. Coast Guard, together with the Environmental Protection Agency, has gained valuable experience in pollution prevention, enforcement and response. That experience has been mainly confined to dealing with oil spills. However, I would like to briefly describe the Coast Guard's continually evolving role in responding to potential and actual discharges involving substances other than oil.

Specific legislative acts have established varying responsibilities for the Coast Guard to respond to emergency situations involving hazardous substances.

Broad authorities are granted the Coast Guard, under the Port and Tanker Safety Act, to respond to emergency situations in the navigable waters of the United States. That authority is limited, however, in that there are no funds specifically provided to support a chemical emergency response activity. Likewise, the Environmental Protection Agency is given broad authority to respond to emergencies under Section 504 of the Federal Water Pollution Control Act.

Under the authority of the Federal Water Pollution Control Act, the National Oil and Hazardous Substances Pollution Contingency Plan assigns the Coast Guard a lead role in working with various Federal agencies to ensure that a well-coordinated response will be undertaken for potential and actual discharges of hazardous substances. Specifically, the Coast Guard has the authority to respond to actual and potential incidents involving hazardous substances occurring in the U.S. coastal areas, ports, harbors, and the Great Lakes. The service also has the authority to enforce regulations to prevent pollution from vessels and other transportation-related facilities. Concurrently, the Environmental Protection Agency has jurisdiction in the inland areas of the United States for response and for the prevention of pollution from non-transportation-related facilities. These Coast Guard and Environmental Protection Agency obligations include: the assignment of pre-designated on-scene coordinators for all areas of jurisdiction; development of regional and local response plans to identify potential problem areas, and to provide for a well coordinated response effort; identification of available pollution control resources; and establishment of a means of responding rapidly and effectively to any pollution incident.

While we will continue to take maximum advantage of our existing statutory authority for hazardous substance pollution response and law enforcement, it is evident that statutory authority for coping with the entire hazardous

substance pollution problem is less than adequate. We are aware of the Congressional debate over the many complex issues surrounding hazardous substance response, liability and compensation and realize that Congress is studying this issue with the same intensive effort used for the oil pollution problem.

A principal problem with existing authority is the surface water medium limitation of our response to discharges, or discharge threats. Because of the particularly toxic characteristics of many hazardous substances, the discharge or release of a hazardous substance can pose an even greater threat to the environment than oil. The overriding consideration for hazardous substances is their reactivity and toxicity. Many hazardous substances, unlike oil, do not float and may not behave like oil when discharged. Obeying the laws of physics and chemistry, they may mix, sink, or evaporate into other environmental pathways. Some hazardous substances react violently when they contact the ground, air, or water and pose an immediate acute threat. A released substance, therefore, may not remain in the environmental media in which it was deposited. When a hazardous substance has been released into the air or onto the land, threatening to migrate into the ground water, the public health and welfare is threatened to an extent equal to that posed by releases into the surface water. I believe that releases of hazardous substances into all media present threats to the public health, welfare and the environment. Therefore, response authority under the law should not be limited to surface waters alone.

Another limitation pertains to the restrictions in current authority limiting Federal response to releases of substances designated as hazardous under Section 311 of the Federal Water Pollution Control Act. It will never be possible to designate every potentially dangerous chemical compound as either an oil or a hazardous substance. Consequently, there will be occasions when

a previously unspecified but dangerous material will be spilled, requiring the Federal government to take response action.

The two agencies providing On-Scene Coordinators--the Environmental Protection Agency and the Coast Guard--respond to pollution incidents regardless of the involvement of substances designated as hazardous under Section 311 of the Federal Water Pollution Control Act. If the pollutant is not one of the designated substances, the parent agency must identify a source of funding, usually from within the agency's operating base, to support the response effort. To avoid the possibility that an On-Scene Coordinator's parent agency might not be able to identify funds to respond to an emergency, coverage is needed that would provide response authority for oil and hazardous spill emergencies.

A third problem relates to the size and nature of the Federal Water Pollution Control Act, Section 311(k) Pollution Fund. The Fund is authorized at a \$35 million level. While appropriations have never been requested to attain that level, prior history and experience show that the \$35 million level would probably be a sufficient level for oil alone. Since 1973, the Fund has never been above \$15 million and has been at extremely low levels four times--one time reaching \$750,000. From July 1979 through March 1980, Fund obligations were approximately \$23 million. Furthermore, our experience with Fund activity and Fund drawdown has been confined principally to oil spills. The recent designation of hazardous substances, under Section 311, and the heightened awareness and growing concern of the nation in regard to hazardous spills and hazardous waste disposal sites will increase our response activity and place additional demands on the Fund. Broadening the legislative authority to respond to emergencies to other than releases into surface waters and to other than designated hazardous substances will also serve to drain the Fund unless other funding mechanisms are provided through the legislative process.

In summary, broader authority and ready access to sufficient monies to support Federal response actions for chemical emergencies are needed.

Mr. Chairman, this concludes my statement. I would like to thank the Subcommittee for this opportunity to discuss the Department of Transportation's views on this subject. I will be happy to address any questions that you, or members of the Subcommittee, may have.